PREDATORY LENDING DETECTION SYSTEM AND METHOD THEREFOR

FIELD OF THE INVENTION

This invention relates to a system and method for closing a loan and in particular, a predatory lending detection system and method therefor.

BACKGROUND OF THE INVENTION

With the deregulation of the consumer credit industry and inflation of property values, a market for equity-secured lending has emerged. For example, most home improvement loans are tied to the equity on the home. Regrettably, a practice known as predatory lending has also emerged. Predatory lending involves financial institutions which use high fees, outrageous costs and other unscrupulous or deceptive lending practices to strip the equity from a homeowner's home. Such practices are usually targeted to the poor, elderly and minorities, who typically lack access to traditional banking services and rely on financial companies or other less regulated lenders.

The Federal Trade Commission has identified several practices for which homeowners should be "on the lookout" and has posted them on its website located at www.ftc.gov. Such predatory practices include (1) equity stripping (e.g., the lender gives a homeowner a loan based on the equity in his or her home and not on the homeowner's ability to repay); (2) loan flipping (e.g., the lender encourages the homeowner to repeatedly refinance the loan and often to borrow more money); (3) credit insurance packing (e.g., the lender adds credit insurance to the homeowner's loan, regardless of need); (4) steering (e.g., the lender puts borrowers with good credit into loans with high interest rates and away from more affordable options); (5) pre-payment penalty charges (e.g., the lender tries to lock borrowers into predatory loans for as long as possible, making it extremely difficult or impossible for borrowers to refinance or

otherwise get out from under the loan); (6) "hidden balloon" payments (e. g., the lender sets up the loan so at the end of the loan, the borrower still owes most of the principal amount borrowed, and offers to refinance the mortgage at excessive fees to eliminate the balloon payment); (7) "bait and switch" (e.g., the lender offers one set of loan terms when the borrower applies, then pressures him or her to accept higher charges when he or she signs to complete the loan.); (8) packing (e.g., packing the loan with exorbitant fees); and (9) fraud (e.g., the manipulation of data to qualify unqualified borrowers).

In addition, federal credit laws and consumer protection statutes have been enacted to deter such practices. For example, the Home Ownership and Equity Protection Act of 1994 ("HOEPA") includes restrictions on financing of points and fees, limitations on the payment of prepayment penalties, and prohibition on balloon payments. Several states, cities and counties have also passed similar predatory lending laws to combat this problem. In fact, given the increased occurrence of predatory lending, legislation is being introduced to expand the number of loans subject to HOEPA.

The above measures are helping to try to reduce the occurrence of predatory lending. However, at least with respect to the poor, elderly, and minorities, the ability to get access to such information let alone any sort of legal assistance is very difficult. Moreover, these measures do not prevent predatory lending from happening in the first place. In addition, the variations between the current predatory lending laws at the federal, state, city and county levels, makes it is very difficult for lenders to keep track of these laws and ensure compliance with them. This problem is becoming increasingly worse as more states, cities and counties adopt their own version of such laws.

While the effects of predatory lending are most directly felt by the individual applying for a loan, lenders are also significantly affected by it, especially wholesale mortgage companies

who purchase loan pools or individual loans that have originated elsewhere, such as by mortgage brokers and mortgage bankers. In the secondary market, purchasers and assignees can be held liable for all claims on loans in their possession. Penalties for predatory lending violations include substantial monetary penalties such as repayment of twice the amount of all interest, fees, discounts and charges as well as court and attorney fees to the borrower. In addition, violations of predatory lending laws can result in the temporary or permanent suspension of business privileges of the lender, such as the ability to sell to quasi-governmental agencies (e.g., Freddie Mac and Fannie Mae) in secondary markets or the ability to sell certain types of loans. In some cases, lenders can lose their licenses and face imprisonment. Moreover, given the ever changing state of the law in this area, the time and costs required by a lender to stay abreast of new developments, as well as understand all of the variations of the state, city and county laws that currently exist is becoming prohibitive, especially for smaller lenders.

There is, therefore, a need for a system and method for automatically detecting any instances of predatory lending during the closing of a loan regardless of its geographic origin.

BRIEF SUMMARY OF THE INVENTION

It is in view of the above problems that the present invention was developed. The invention is directed to a predatory lending detection system having a mechanism for receiving loan information pertaining to one or more loans, a mechanism for storing general loan information, and a mechanism for processing the loan information for each loan to detect predatory lending without requiring knowledge of predatory lending laws on the part of a user of the system. The processing mechanism includes a mechanism for comparing the loan information for each loan to one or more of the predatory lending laws applicable to the loan and to the general loan information to detect one or more variances therebetween, each

variance having a certain degree, and a mechanism for scoring each variance based upon the degree thereof to determine a risk category for each loan based on the sum of the scores for each detected variance associated therewith. The system may further include a mechanism for notifying a user of the system when one or more variances are detected, as well as for tracking the status of each detected variance associated with each loan. The processing mechanism may determine one or more steps needed to resolve each detected variance, of which the user is notified via the notification mechanism. The predatory lending laws may include at least one of a city, county and state law, the loan information includes a city, county and state in which each loan is to be closed, such that the processing mechanism identifies the city, county and state associated with each loan, and applies the predatory lending laws of the identified city, county and state to the loan information for each loan. The processing mechanism may further include a mechanism for detecting fraud in connection with the loan based on the detected variances. The system may be web-enabled.

The invention is also directed to a predatory lending detection system having a receiving mechanism being adapted to receive information pertaining to one or more loan, a storage device being adapted to store general loan information, and a processor being adapted to process the loan information to calculate a score for each variance between the loan information and at least one of a plurality of predatory lending laws and the general loan information. The processor is adapted to process all of the scores calculated in association with each loan to determine a risk category for each loan based on the sum of the scores. The system may further include a detector being adapted to detect fraud in connection with the loan based on all variances associated therewith. The processor may be further adapted to track the status of each detected variance associated with each loan. The system may be web-enabled.

The invention is also directed to a computer-readable medium whose contents cause a computer system to detect predatory lending in connection with one or more loans by performing the steps of receiving information pertaining to the one or more loans, storing general loan information, comparing the information for each loan to a plurality of predatory lending laws and to the general loan information to detect one or more variances therebetween, each variance having a certain degree, and scoring each variance based upon the degree thereof, whereby knowledge of the predatory lending laws on behalf of a user of the system is not required. The medium may further include the steps of determining a risk category for each loan based on the sum of the scores for each detected variance associated therewith, notifying a user of the system when one or more variances are detected, determining one or more steps needed to resolve each detected variance and notifying the user of each detected variance and the one or more steps necessary to resolve it, tracking the status of each detected variance associated with each loan, and detecting fraud in connection with the loan based on the one or more detected variances.

The invention is further directed to a computer-implemented method of detecting predatory lending in connection with one or more loans, including the steps of receiving information pertaining to the one or more loans, storing general loan information, comparing the information for each loan to a plurality of predatory lending laws and to the general loan information to detect one or more variances therebetween, each variance having a certain degree, and scoring each variance based upon the degree thereof, whereby knowledge of the predatory lending laws on behalf of a user of the system is not required. The method may further include the steps of determining a risk category for each loan based on the sum of the scores for each detected variance associated therewith, notifying a user of the system when one or more variances are detected, determining one or more steps needed to resolve each detected

variance and notifying the user of each detected variance and the one or more steps necessary to resolve it, tracking the status of each detected variance associated with each loan, and detecting fraud in connection with the loan based on the one or more detected variances. The method may be implemented in a web-based environment.

BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWINGS

The accompanying drawings, which are incorporated in and form a part of the specification, illustrate the embodiments of the present invention and together with the description, serve to explain the principles of the invention. In the drawings:

Figure 1 is a block diagram of a predatory lending detection system in accordance with one embodiment of the present invention.

Figure 2 is a flowchart illustrating one embodiment of the steps for detecting predatory lending in connection with the closing of a loan using the system of Figure 1.

Figure 3 shows a flowchart illustrating one embodiment of the step of determining whether the loan is subject to applicable predatory lending laws of Figure 2 with respect to the predatory lending laws of the State of North Carolina.

Figure 4 shows a flowchart illustrating one embodiment of the step of determining whether the loan is subject to applicable predatory lending laws of Figure 2 with respect to HOEPA.

Figure 5 shows a sample of selected portions of a U.S. Department of Housing and Urban Development Settlement Statement.

Figure 6 shows a sample of a Federal Truth-In-Lending Disclosure Statement.

Figure 7 shows a sample of selected portions of an Adjustable Rate Note.

Figure 8 shows one embodiment of a report generated by the system and method of the present invention.

Figure 9 shows one embodiment of an input screen display generated by the system of Figure 1.

DETAILED DESCRIPTION OF THE INVENTION

Figure 1 shows a block diagram of a predatory lending detection system 10 in accordance with one embodiment of the present invention. While the system 10 will be described in connection with a mortgage, it can be appreciated that the system 10 can be applied to any type of loan which may be subject to predatory lending laws. The system 10 consists of a plurality of databases for storing a plurality of different types of information. In particular, a loan database 12 stores a variety of information about loans being processed by system 10. Such loan information comes from a variety of loan documents, which may include without limitation, a U.S. Department of Housing and Urban Development (HUD) Settlement statement 14, a Federal Truth-In-Lending Disclosure statement 16, a Specific Closing Instructions document 18, a Note 20 (fixed, balloon or adjustable rate), an Adjustable Rate Rider 22 (if applicable), an Itemization of Amount Financed document 24, a Loan Document Worksheet 26, a Deed of Trust 28, an Escrow Waiver 30 (if applicable), and a 1003 (residential loan application) 21.

A predatory lending database 32 stores all of the federal, state, city and county predatory lending laws. The federal law is embodied in Section 32 of HOEPA. States that currently have predatory lending laws include Colorado, Connecticut, Florida, Illinois, Louisiana, North Carolina, Ohio, Pennsylvania, Virginia, Washington and West Virginia. The state, city and county laws differ in varying degrees from the federal law. The status of predatory lending legislation at all levels can be found on the Internet at http://www.mbaa.org/resources/predlend/.

A database 34 stores general information related to borrowers, lenders, properties and any other aspect of a loan. Borrower information may include without limitation personal information about the borrower such as his or her name, address, and Social Security number. Property information may include without limitation addresses and appraisal values. Lender information may include without limitation the lender's name, address and loan history. This general information can come internally from the operator of the system 10, and/or from one or more third party or external database sources. For example, property information could come from such third party sources as International Data Management Corporation (IDM), Data Quick and Management Risk Assessment Corporation (MRAC), and Accumail United States Postal Service National Database. Borrower and lender information could come from third party sources, such as Trans Union, Equifax, Lexis Nexis, Axiom, Info USA and Dunn and Bradstreet. One or more of the input devices may be connected to a printer 40 for printing reports 42 generated by the system 10 as further described herein.

The loan information, the predatory lending laws and the general information are stored in a database server 35 which includes communication software for communicating with third party or external databases not stored therein. It can be appreciated, however, that the loan information, the predatory lending laws and the general information could be each stored in a separate database server or stored in various combinations thereof as needed. In one embodiment, the server database 35 is a Dell Power-Edge 2400 running Sequel Server 2000 software in a Windows 2000 operating system environment. In a preferred embodiment, two database servers are provided for load balancing and redundancy.

Referring back to Figure 1, the loan information may be input into system 10 for storage in loan database 12 via input devices 36. While input devices 36 as shown are personal computers, they can be any type of device that allows the input of data. Input devices 36 are

shown as being located at the lender's establishment such that the loan information is input directly by the lender and then simply downloaded to database server 35 for storage in the loan database 12. The lender may in turn use a document preparation company to input and download the loan information directly for storage in loan database 12. Alternatively, the loan documents containing the loan information can be sent to the operator of the system 10 to be input via one or more input devices 37 connected either directly or remotely to an application server 39. Such input devices 37 may then also be used to input the predatory lending laws for storage in the predatory lending database 32.

Application server 39 is responsible for processing the necessary loan, predatory lending, and general information associated with a loan in order to detect whether predatory lending exists in connection with that loan. Application server 39 includes memory (not shown) for storing the programs necessary for determining whether predatory lending exists as will be further discussed herein. Application server 39 interfaces with the input devices 36 through server 38. The connection between input devices 36, 37 and server 38 can be via any communication network such as the telephone network, a satellite network, a cable network or any other communications network capable of transmitting information across it. Server 38 includes communication software to allow it to communicate with input devices 36. In one embodiment, servers 38 and 39 are Dell Power-Edge 1550 servers running Microsoft Internet Information Services (IIS) Server v5.0 software under a Windows 2000 advanced server operating system. In a preferred embodiment, server 38 is a web server that allows system 10 to be implemented through a website accessible via the Internet. However, it can be appreciated that any type of server having the necessary processing capabilities and storage capacity may be used. In a preferred embodiment, servers 38 and 39 are also each provided in duplicate for load balancing and redundancy.

The process of detecting a loan in violation of any applicable predatory lending laws at the federal, state, city and county level will be described with reference to Figures 2, 3 and 9 and a web-based system 10 being accessed by a lender. It can be appreciated, however, that the system 10 need not be web-based to operate, and any user with access to the system 10 (i.e., not just a lender) may use the system 10. As shown in Figure 2, at 100, loan information about a particular loan is input into system 10. Specifically, the lender logs on to system 10 through input device 36, whereupon several screens such as screen 70 shown in Figure 9, are displayed, which include various fields in which loan information may be input. For example, screen 70 includes a General Information section 172 in which general information about the borrower can be input, such as last name, middle name, first name, Social Security number, phone number, age and citizenship. Current residence section 74 allows the lender to input information related to the borrower's current residence. Employer Information sections 76 and 78 allow the lender to input information related to the borrower's current and previous employers. Once the loan information has been input, the lender can save it by clicking on the Save Data button 80. If the lender does not wish to save the information, he or she can simply click the cancel button 82. Similar screens are displayed to the lender until all of the necessary loan information has been input. Once input, the information is downloaded to loan database 12.

Referring back to Figure 2, at 102, application server 39 checks the loan information to determine the applicable state. Typically, the state information is taken from either the HUD statement, the Truth-in-Lending statement or the Note. Of course, it could be taken from any loan document having this information. At 103, the system 10 retrieves the predatory lending laws of that state from the predatory lending database 32. If the state or any city or county therein have no predatory lending laws, the federal HOEPA laws are applied. If the state to

which the loan is subject also has an applicable city and/or county law, such law(s) are first applied to the extent they are not overridden by that state's predatory lending laws.

At 104, the system 10 determines whether the loan is subject to the applicable predatory lending laws. If no predatory lending laws apply, at 105 the lender is notified that no predatory lending laws apply to the loan. Such notification can be directly displayed on the screen of his or her input device 36. Alternatively, in the case where the loan is not being processed in real-time, notification can be sent to the lender via e-mail, facsimile or any other known notification method.

In making a determination whether the loan is subject to the applicable predatory lending laws, the system 10 examines certain loan information from various loan documents and compares that loan information to the applicable federal, state, city and/or county predatory lending laws. For the purposes of illustration only, step 104 will be explained with reference to North Carolina's predatory lending laws as set forth in Figure 3.

Under North Carolina's predatory lending laws, all mortgage loans under $300,000 and having an annual percentage rate greater than the non-competitive rate for a six (6) month Treasury-bill (T-bill) by more than six percent (6%) are subject thereto. Accordingly, at 200, system 10 obtains the loan amount 50 from the Note 20 as shown in Figure 7. If the loan amount is under $300,000, at 204, the system then obtains the annual percentage rate (APR) 52 indicated on the Truth-In-Lending statement 16 as shown in Figure 6. Again, the loan amount and APR could equally be taken from any other loan documents having this information on them. At 206, the system 10 also obtains the current six (6) month T-bill rate stored in the general information database 34. At 208, the system 10 checks whether the APR exceeds the non-competitive rate for a six (6) month T-bill by more than six percent (6%). If the loan amount is under $300,000 and the APR exceeds such T-bill rate by more than six

percent (6%), then the predatory lending laws of North Carolina apply to the loan. If either one of these conditions is not met, North Carolina's predatory lending law does not apply to the loan. At 210, the process ends. While the process shown in Figure 3 has the loan amount determination done prior to the APR determination, it can be appreciated that the order of those determinations could be reversed.

In the event that a state does not have any predatory lending laws, the federal law, HOEPA, will be applied to the loan. HOEPA lays out a two-part test for determining whether loans are subject thereto. As shown in Figure 4, at 300, the system 10 obtains the APR 52 from the Truth-In-Lending statement 16 as shown in Figure 6. At 302, the system also obtains the current T-bill rate on a bond of comparable maturity from the general information database 34. At 204, the system 10 determines whether the APR exceeds such T-bill rate by more than ten (10%) percent. If so, at 306, the system obtains the points and fees from the HUD Settlement statement as shown in Figure 5. Typically, the points and fees are found in the "Total Sales Broker's Commission" section 54, the "Items Payable in Connection With The Loan" section 56, and the "Additional Settlement Charges" section 58. Of course, they may be found in other sections of the HUD settlement statement. Again, the APR and points and fees could equally be taken from any other loan documents having this information on them. At 308, the system 10 determines if the non-interest fees exceed ten percent (10%) of the loan amount. If one of these two conditions is not satisfied, the loan is not subject to HOEPA. It can be appreciated of course that the order of steps 302 and 304 and steps 306 and 308 can be reversed. This process ends at 310.

Referring back to Figure 2, if the loan is subject to a predatory lending law, at 106 the system 10 compares certain loan information to the applicable predatory lending laws(s) and the information in the general information database 34, and at 103 detects each variance or

difference therebetween. The variance may represent the difference between the actual loan information and that allowed under the applicable predatory lending law(s). For example, with respect to HOEPA, if the APR of a loan is 18% and the current T-bill rate for a bond of comparable maturity is 5%, the detected variance will be 3% (i.e., the APR is 3% greater than the T-bill rate plus 10%). The variance may also represent the difference between the loan information stored in the loan database 12 and that stored in the general information database 34. For example, the system 10 checks the Social Security number provided by the borrower in the loan documents against a database containing all Social Security numbers used in death claims. If the borrower's Social Security number is identified in their database, a variance will be detected. By detecting such variances, the system 10 can detect actual violations of the applicable predatory lending law(s), as well as potential violations and fraud.

At 110, the system 10 scores each variance based on the degree thereof. In one embodiment, the higher the degree of variance, the lower the score. It can be appreciated, however, that a reverse scoring system could be used whereby a higher a degree of variance results in a higher score. For example, if the applicable predatory lending law prohibits APR's greater than ten percent (10%), a loan having an APR of 11% will be scored lower than a loan having an APR of 15%. Nevertheless, both would be scored to reflect a violation of the predatory lending law. At 112, the system 10 totals the score of each variance and at 114, assigns the total score a risk category. In one embodiment, a total score ranging between 600 and 1000 results in a Pass status, a total score ranging between 401 and 599 results in an "High" status, and a total score ranging between 0 and 400 results in an Investigate status. A Pass status means that there were no or minimal variances (i.e., no actual predatory lending violations) detected in connection with the loan. A High status means that while there were no actual predatory lending violations, the variances are "borderline" (i.e., reflect a potential

predatory lending violation). An Investigate status means that there is some aspect of the loan that violates the applicable predatory lending law(s). So, in the example where the APR violates the applicable predatory lending law, the score would be at least less than or equal to 400. It can be appreciated, however, that any type of scoring system, including a non-numeric one, could be used.

At 116, the system 10 determines what step or steps are needed to resolve any detected variances. For example, if the APR was two percent (2%) too high, the system would determine that the APR needed to be lowered and by what amount. At 118, the system 10 notifies the user of the results and at 120 the process ends.

Figure 8 shows one embodiment of how system 10 may notify a user of its results. Specifically, a screen 400 is displayed to the user on his or her input device. In section 401, identifying information about the loan is displayed, such as the borrower and loan number. In section 402, more detailed loan information is provided, such as for example the loan amount, purchase price, estimated/appraised value of the property, property type and the loan application date. Section 404 provides a summary of the results of the loan as processed by system 10. At 406, the total score is displayed, and at 408, the risk category is identified.

In the case of an Investigate status, section 410 identifies the variance or transgression and at 412, provides a description of the applicable predatory lending law provision that is being transgressed. In the example shown, the first transgression is that the loan has an APR which exceeds the limit allowed under the applicable law which, in the example shown, is that of DeKalb County, Georgia. This predatory lending law prohibits the APR from exceeding the T-bill rate by more than five percent (5%). The second transgression indicates that state/local regulations do not allow for financing of credit life insurance on high-cost loans. The particular regulation is again that of DeKalb County, Georgia which prohibits the finance of

credit life, credit disability, credit unemployment or any other life or health insurance in connection with a high-cost loan. At 414, the system 10 identifies any action that can be taken to resolve the transgression. A section 416 is also preferably provided which allows any additional comments regarding the transgression, as well as a section 418 which allows the user to track the status of a transgression and if and when it has been resolved.

In view of the foregoing, it will be seen that the several advantages of the invention are achieved and attained. The embodiments were chosen and described in order to best explain the principles of the invention and its practical application to thereby enable others skilled in the art to best utilize the invention in various embodiments and with various modifications as are suited to the particular use contemplated. As various modifications could be made in the constructions and methods herein described and illustrated without departing from the scope of the invention, it is intended that all matter contained in the foregoing description or shown in the accompanying drawings shall be interpreted as illustrative rather than limiting. Thus, the breadth and scope of the present invention should not be limited by any of the above-described exemplary embodiments, but should be defined only in accordance with the following claims appended hereto and their equivalents.